

Remarks

By foregoing Amendment, claim 1 is currently amended. Entry of Amendment and favorable consideration thereof is earnestly requested in light of the following remarks.

The Examiner has rejected claims 1–6 under 35 U.S.C. 102(b) as being anticipated by Falk, U.S. Patent No. 4,994,024. The Applicants respectfully submits that claims 1–6 are not anticipated by Falk and respond accordingly.

Falk does not anticipate claims 1–6 because Falk does not disclose all of the elements of the claimed invention as required by independent claims 1, and dependent claims 2–6. Falk is missing the element that the push pin is inserted, at least partly in form-locking connection, into a recess of a rigid casing, which in turn is inserted, at least partly in form locking connection into the shaft as required by claims 1–6. Falk is further missing the element that the push pin is mounted secure against rotation at least in some sections in the rigid casing because Falk does not disclose that the push pin is inserted into a recess in a rigid casing.

Falk discloses arthroscopy hook-clippers comprising a shaft with a circular cross section with a gripping member at the distal element, wherein a push pin (thrust rod) extends through the shaft for displacing the gripping member, and a hollow vacuum tube extends through the shaft beside the push pin. Falk does not anticipate the present invention because the push pin is not inserted into a recess of the vacuum tube, but rather the push pin is beside the vacuum tube. (col. 2, lines 60–61). The applicant respectfully submits that tubes 3 and 7 do not do not form a rigid casing which the push pin is inserted into a recess thereof as required by all claims. The push pin 9 and the vacuum shaft 7 both extend in shaft 3 in a parallel direction, wherein the pushpin is beside the

vacuum tube. Falk does not disclose that a push pin is inserted, at least partly in form-locking connection, into a recess of a rigid casing, which in turn is inserted, at least partly in form-locking connection, into the hollow shaft and the push pin is mounted secure against rotation at least in some sections in the casing.

There is no motivation to modify Falk to arrive at the claimed invention. In fact, Falk explicitly teaches away from inserting the push pin into a recess in the vacuum tube. The function of the vacuum tube is to extract cartilage and bone pieces from the surgical field removed by the gripping member during surgery. Falk teaches that the disadvantage of the prior art is that the push pin is inserted inside a recess in the vacuum tube, causing cartilage and bone pieces to contact the push pin so that the spread of bacteria and inhibition of the vacuum extraction operation can occur. Falk teaches to locate the push pin outside the vacuum tube to overcome this disadvantage of the prior art. A person of ordinary skill in the art would have no motivation to insert the push pin into a recess in the vacuum tube in light of Falk.

For the foregoing reasons, the Applicants respectfully submit that all pending claims are allowable over the reference of record, and earnestly solicit allowance of the same.

Respectfully submitted,

/Wesley W. Whitmyer, Jr./

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